IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 497 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

USHABEN W/O.BHAGWATPRASAD SHAH - Appellant(s)
Versus
SONI KANAIYALAL KESHAVLAL & 1 - Defendant(s)

==========

Appearance :

MR SANDIP C SHAH for Appellant(s) : 1,
None for Defendant(s) : 1,
MS LILU K BHAYA for Defendant(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 30/08/2006

ORAL JUDGMENT

1. This appeal is at the instance of the original claimant for enhancement of the compensation

as awarded by the Motor Accident Claims Tribunal in Motor Accident Claim Petition No. 12/91 whereby the Tribunal had awarded a sum of Rs 2,6500/- along with interest at the rate of 12% per annum.

2. The original claimants had filed claim petition seeking compensation in connection with a vehicular accident which took place on road from Shahpur Bahai centre to Shahpur on 15.9.90 at about 12-15 p.m. At the time of the accident the appellant was crossing the road, and opponent No. 1 came driving Motor Cycle No. GJM 5365 at excessive speed, negligently and dashed with the appellant. The appellant sustained serious injuries on her both legs. Hence she filed the aforesaid claim petition which was partly allowed.

3. Learned counsel for the appellant has contended that looking to evidence on record viz Exh 24 Ushaben D. Shah, her age was 44 years in 1993, which supports the age stated as 42 years in the petition, the lower court has erred in taking 45 years as age of the claimant. Learned counsel for the

appellant has further contended that looking to the serious injuries sustained in both legs, she was confined hospital for about six months, the award of Rs 7,000/- towards pain, shock and suffering is on the lower side.

5. As a result of hearing and perusal of the record it is found that the Tribunal has considered all the aspects of the matter. The Tribunal has taken into consideration the injuries sustained by the claimant and the medical evidence and awarded a sum of Rs 7000/- under the head of pain shock and suffering. Nothing is pointed out to enhance the said amount. I am also of the view that the compensation awarded under other heads is also just and proper and no case is made out to enhance the compensation. Hence this appeal is dismissed. No order as to costs.

(K.S.Jhaveri,J)

mary//